



Section 3 - Contingency planning

Contingency planning in response to the threat of industrial action.

The purpose of industrial action is to put pressure on employers (and in this case the government), with a view to resolving a dispute. The key issue for local employers in the NHS will be to ensure that any consequent disruption does not jeopardise patient welfare or safety.

In considering how to minimise the impact of industrial action, senior managers may need to conduct an analysis of the following:

- Whether the action supported by the union is lawful. Is there a valid trade dispute and have the steps taken by the union so far complied with statutory requirements?
- Whether the proposed action is likely to be limited (for example a single day of action) or lengthier and more widespread.
- The number of staff in occupational groups who have been balloted for action compared to the workforce as a whole to assess the extent of possible action and estimate its potential impact.
- Whether the proposed action will be strike action or action short of a strike. If action short

of a strike, will it involve staff working less than their full contractual duties? If so, the trust should decide whether staff participating in such action will be paid.

- The contingency plan that has been put in place to minimise the disruptive effect of the action.
- Any derogations that have been agreed with the trade unions.

Contingency planning for industrial action should cover the multiple practical and operational issues that will need to be addressed, so that essential services can be maintained while industrial action is taking place. These plans should build upon an organisations existing business continuity plan, ensuring that planning for staff shortages due to industrial relations is not undertaken in isolation.

As part of industrial action contingency planning, operational managers will also want to consider whether to redeploy staff (including bank workers and agency workers) or engage additional staff to carry out the essential tasks of staff who are participating in industrial action. This is often a complex question involving the following issues:

- Do staff who are to be redeployed have adequate training and experience to carry out the necessary tasks competently and safely?
- Is there sufficient flexibility in their contracts of employment which is wide enough to cover the new duties (that may be out of their remit) and/or any change to their place of work. If not, any enforced change may be a breach of contract.

- Would other staff be willing to cover for colleagues who are participating in industrial action?
- The potential long-term consequences for staff relations if they do provide cover for striking staff.
- The possibility that staff who have agreed to provide cover may ultimately change their minds and decline to cross picket lines.

It is important that managers take a reasonable approach to redeployment and implement changes by agreement wherever possible. Any decision to enforce changes should be taken with care, even where the flexibility in the contracts allow it, as to do so unreasonably may amount to a breach of contract